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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120409403-2403-01]

RIN 0648-BB93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Comprehensive Annual Catch Limit Amendment Supplement

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Supplemental proposed rule; request for comments.

SUMMARY: NMFS proposes to supplement the regulations implementing the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment) for the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). The Comprehensive ACL Amendment specified, in part, annual catch limits (ACLs) and accountability measures (AMs) for species in the Snapper-Grouper FMP. A final rule implementing the Comprehensive ACL Amendment was published in the Federal Register on March 16, 2012, and is effective on April 16, 2012. However, after publishing the final rule, NMFS discovered that

the commercial quota for greater amberjack (commercial ACL for greater amberjack), which was specified in the Comprehensive ACL Amendment, was inadvertently not specified in the proposed or final rules. The intent of this supplemental proposed rule is to specify the commercial ACL for greater amberjack, while maintaining catch levels consistent with achieving optimum yield (OY) for the resource.

DATES: Written comments on this proposed rule must be received no later than [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the supplemental proposed rule identified by "NOAA-NMFS-2012-0039" by any of the following methods:

- Electronic submissions: Submit electronic comments via the Federal e-Rulemaking Portal:
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Rick DeVactor, Southeast Regional Office, NMFS,
263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments are specifically sought on the action contained in the supplemental proposed rule to revise the greater amberjack commercial sector quota. All comments received are a part of the public record and will generally be

posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2012-0039" in the keyword search and click on "search". To view posted comments during the comment period, enter "NOAA-NMFS-2012-0039" in the keyword search and click on "search." NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments through means not specified in this rule will not be accepted.

Electronic copies of the Comprehensive ACL Amendment, which includes a final environmental impact statement (FEIS), a regulatory flexibility analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov/sf/pdfs/Comp%20ACL%20Am%20101411%20FINAL.pdf>.

FOR FURTHER INFORMATION CONTACT: Rick DeVactor, Southeast

Regional Office, NMFS, telephone: 727-824-5305; email:
rick.devictor@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for snapper-grouper is managed under the Snapper-Grouper FMP. The FMP is prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

Greater amberjack managed under the FMP is neither overfished nor undergoing overfishing, and is not in a rebuilding plan. The 2006 revisions to the Magnuson-Stevens Act require that by 2011, for fisheries determined by the Secretary of Commerce (Secretary) to not be subject to overfishing, ACLs and AMs must be established at a level that prevents overfishing and helps to achieve OY. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

An ACL is the level of annual catch of a stock or stock complex that is set to prevent overfishing from occurring. An ACL that is met or exceeded serves as the basis for triggering an AM. ACLs may incorporate management and scientific

uncertainty, and take into account the amount of data available and level of vulnerability to overfishing for each species. Separate ACLs may be established for each sector of a fishery, i.e., commercial and recreational. However, the combined total of both sector ACLs may not exceed the total ACL for a species or stock complex.

As specified in the Comprehensive ACL Amendment, the total ACL for greater amberjack is 1,968,000 lb (892,670 kg), round weight. Within the snapper-grouper fishery of the South Atlantic, the harvest of greater amberjack is divided between the commercial and a recreational sectors; the total ACL is also so divided. The commercial sector ACL for greater amberjack is 800,163 lb (362,948 kg), round weight, or 769,388 lb (348,989 kg), gutted weight, and the recreational sector ACL is 1,167,837 lb (529,722 kg), round weight. The commercial quota for greater amberjack is specified in the regulations in gutted weight, because the fishermen are accustomed to the quota being specified in gutted weight. The greater amberjack commercial sector quota proposed through this rulemaking also serves as the greater amberjack commercial sector ACL, set forth in the Comprehensive ACL Amendment.

However, although it is set out in the Comprehensive ACL Amendment, the commercial quota for greater amberjack was

inadvertently omitted from the proposed and final rules implementing the Comprehensive ACL. On October, 20, 2011, NMFS published a notice of availability for the Comprehensive ACL Amendment and requested public comment (76 FR 65153). On December 1, 2011, NMFS published a proposed rule for the Comprehensive ACL Amendment and requested public comment (76 FR 74757). Additionally, on December 30, 2011, NMFS published an amended proposed rule for the Comprehensive ACL Amendment specific to a revised allowable biological catch (ABC) and a corresponding reduction to the commercial and recreational sector ACLs for wreckfish and requested public comment (76 FR 82264). The Secretary of Commerce approved the Comprehensive ACL Amendment on January 18, 2012. The final rule to implement the Comprehensive ACL Amendment was published on March 16, 2012 (77 FR 15916).

In the proposed rule, the revised commercial quota for greater amberjack referenced in 50 CFR 622.49(b)(11)(i)(A) was inadvertently left unrevised in the commercial quota section in 50 CFR 622.42(e)(3). Therefore the final rule also left the commercial quota for greater amberjack unrevised. This supplemental proposed rule would revise the commercial quota for greater amberjack.

Management Measure Contained in this Proposed Rule

Greater Amberjack Commercial Quota

The final rule to implement the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012) implemented ACLs and AMs for greater amberjack. However, as noted above, NMFS inadvertently failed to revise the commercial quota for greater amberjack. Because the commercial quota serves as the commercial sector ACL, which acts as the trigger for the commercial sector's AM, without the revised commercial quota, the commercial sector ACL is incomplete. This rule would revise the greater amberjack commercial quota to accurately reflect the actions within the amendment and meet the intent of the Council. This rule reduces the current commercial sector quota of 1,169,931 lb (530,672 kg), gutted weight, to 769,388 lb (348,989 kg), gutted weight.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Comprehensive ACL Amendment, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not

significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the final rule to implement the Comprehensive ACL Amendment would not have a significant economic impact on a substantial number of small entities. The purpose of this proposed rule, as described in the preamble, is to revise the commercial greater amberjack quota that was inadvertently not revised in the final rule implementing the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012), consistent with the intent of the Council. The effects of the commercial quota, 800,163 lb (362,948 kg), round weight, or 769,388 lb (348,989 kg), gutted weight, were fully described in the Comprehensive ACL Amendment. This revised commercial quota is approximately 400,000 lb (181,437 kg), gutted weight, less than the existing commercial quota. However, the average annual commercial greater amberjack harvest for 2005 to 2009 was only 690,725 lb (313,308 kg), gutted weight, which is substantially less than the existing commercial quota, and which is still less than the quota proposed here. Because the new commercial quota would be more than the average annual commercial greater amberjack harvest, the specification of the new quota is not expected to have any direct adverse economic effects on the

commercial harvesters of greater amberjack or associated industries. These results and conclusions were provided in the Comprehensive ACL Amendment. The Classification section of the proposed rule (76 FR 74757, December 1, 2011) and the final rule (77 FR 15916, March 16, 2012) implementing the Comprehensive ACL Amendment, however, focused on the actions which were expected to have direct adverse economic effects on small entities. Because the revision of the greater amberjack commercial quota (commercial ACL) is not expected to have any direct adverse economic effects on small entities, no reference to, or discussion of the expected economic effects of this revision was included in the Classification sections of these two rules.

In summary, this proposed rule, if implemented, would simply correct an administrative oversight in a previous rulemaking. For the reasons above, if implemented this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and
recordkeeping requirements, Virgin Islands.

Dated: April 17, 2012

Alan D. Risenhoover,
Acting Deputy Assistant Administrator
For Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is
proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read
as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.42, paragraph (e)(3) is revised to read as
follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(3) Greater amberjack--769,388 lb (348,989 kg) .

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